IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9733 of 2004

Between:
B.Veeraiah S/o Jamalaiah
K.B.Banjar Village, Penuballi Mandal , Khammam district
..... PETITIONER

AND
1 The Commissioner of Prohibtion & Excise AP. Hyderabad
2 The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more one in the nature of Writ of mandamus declaring the action of the respondent No. 1 in not passing any interim orders on the stay petitioner and kept pending in Appeal No. 9078/04 with him and seizing the vehicle Auto rickshaw bearing No. AP 20 U 7434 of the petitioner in Crime No.2186/02/P&E/B3 dt. 29/02/2004 of the 2nd respondent is illegal and arbitrary and contrary to the principles of natural justice and consequently direct the respondents not to seize the petitioner's Auto Rickshaw bearing No. AP U20 7434 in Crime No. 2186/02/P&E /B3 dt. 29/02/2004 of the 2nd respondent

Counsel for the Petitioner: Mr. KILARU KHADAR BABA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the rejection of the stay petition by the first respondent during the pendency of the appeal, which was filed against the orders passed by the second respondent ordering confiscation of the seized Auto rickshaw bearing No. AP 20U 7434 along with the goods seized i.e., Black Jaggery.

2. The grievance of the petitioner is that during pendency of the enquiry before the second respondent, the seized vehicle was released in favour of the petitioner on furnishing fixed deposit for Rs.5,000/- in favour of the second respondent. But, however, finally the second respondent rejected the claim of the petitioner and ordered confiscation, against which an appeal was filled before the first respondent and the same is pending. Pending the appeal, the petitioner sought for release of vehicle or to continue the possession of the vehicle with the petitioner till the disposal of the appeal on the same terms. But, the appellate authority rejected the same by order dated 17-05-2004. Hence, the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

4. In view of pendency of the appeal, as the auto, which was seized on account of violation of the provisions of the Andhra Pradesh Prohibition and Excise Act (for short 'the Act') and which was ordered to be confiscated, was given to the petitioner on condition of making a fixed deposit of Rs.5,000/-, which the petitioner has already deposited and the petitioner was allowed to be in possession of the vehicle, the petitioner sought the same relief during the pendency of the appeal. But, the appellate authority rejected the same.

5. In view of the facts stated earlier, it would be appropriate to direct the respondents to continue the seized vehicle-auto bearing No. AP 20U 7434 in the custody of the petitioner on the same conditions as was imposed by the original authority i.e., the second respondent i.e., on continuing the fixed deposit of Rs.5,000/- in favour of the second respondent. The petitioner is also further directed to file an undertaking, if not already filed, before the second respondent that he shall not alienate the vehicle or encumber the same during pendency of the appeal.

6. The writ petition is accordingly disposed of at the admission stage.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

17.06.2004
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One Fair copy to the Hon'ble Sri Justice S. Ananda Reddy (for his lordship's kind perusal)

To
1 The Commissioner of Prohibition & Excise AP. Hyderabad
2 The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District
3 2 CCs to G.P. for Prohibition & Excise, High Court Buildings, Hyderabad (OUT)
4 2 CD copies